

JULY 14, 1998

This matter comes before the Public Service Commission (“the Commission”) on the Petition for Rehearing or Reconsideration of Commission Order No. 98-369 filed by Carolina Water Service, Inc. (“CWS” or “the Company”). For the reasons set forth below, the Commission denies the Company’s Petition for Rehearing and Reconsideration.

In Porter v. South Carolina Public Service Commission and Carolina Water Service, Inc., 328 S.C. 222, 493 S.E.2d 92 (1997), the Supreme Court remanded to the Commission two issues arising from an Application by Carolina Water Service, Inc. (“CWS”) for an increase in its rates. By Order No. 98-163, dated March 2, 1998, in the instant Docket, the Commission disposed of the issue related to deferred charges. The Commission also held in Order No. 98-163 that a hearing was required to address the remaining issue of the appropriate amount of CWS’ new account charge, including the position of the Consumer Advocate for the State of South Carolina (“the Consumer Advocate”) that a reduction in the new account charge is required. A hearing on the issue

of the new account charge was convened on April 15, 1998. Order No. 98-369 was issued following the hearing and set the new account charge for CWS at \$13.50. CWS now requests rehearing or reconsideration of that Order.

CWS first asserts that “the Commission impermissibly shifted to the Company the burden of proving the reasonableness of its rates.” Petition, p. 2. CWS asserts that the Consumer Advocate is the party seeking the reduction in the charge and asserts that the Commission erred in requiring the Company to establish the justness and reasonableness of the new account charge. The Commission disagrees with the Company’s assertion.

The issue of the appropriate amount of the new account charge arose when the Company requested that the new account charge be increased in the context of a rate case. In the original proceeding, the Commission denied the requested increase in the new account charge but did not reduce the new account charge as requested by the Consumer Advocate because the charge had been approved in a previous rate case without objection. In its opinion on the original proceeding, the Supreme Court remanded the issue of the new account charge to the Commission and stated that “the Commission has the continuing power to prospectively correct or reduce a previously approved charge.” Porter v. SCPSC, et al., 493 S.E.2d at 99. The Court further stated that “the fact that this matter came before the Commission pursuant to Company’s request for an increase in the new account charge does not impact the Commission’s power to consider all the facts before it and order a reduction in this charge.” Id. at 99. With regard to a reduction, the Supreme Court then stated in footnote 7 that “[o]f course,

any reduction is subject to the requirement that the utility receive notice and an opportunity to be heard.” Id. at 99.

In its Order on Remand, the Commission found that CWS did not receive proper notice that the new account charge could or would be reduced. A reduction in the charge was not framed by any pleading or notice in this case. The new account charge of \$27.00 had been determined to be just and reasonable in a prior proceeding from which no appeal was taken. Based on the Commission’s determination that the Company did not receive notice that the new account charge was being challenged as improper or unjust, the Commission ordered a hearing on the issue of the new account charge.

The Commission finds no error in its decision requiring the Company to show that its new account charge was just and reasonable. The Company states that the Commission erred in placing upon the Company the burden of establishing the justness and reasonableness of its existing and authorized new account charge. The Commission disagrees. The issue of the new account charge arose in the context of a rate proceeding in which the Company requested an increase in the charge. The Company put the issue of the new account charge in issue, and the Commission finds no error in requiring the Company to establish the charge as just and reasonable.

The Company then asserts that the Commission erred in failing to adjust other rates to account for “the revenue shortfall which will result from a reduction of the new account charge.” Petition, p. 2. The Commission finds no error in its decision. The hearing, which arose as a result of the Supreme Court’s remand, was held to address the

single issue of the new account charge. The Commission finds no error in not revisiting the other rates and charges of the Company at this time.

Next, CWS contends that the Commission erred in concluding that the fact that the cost of establishing a new account is less than the previously approved \$27.00 rate requires that the new account charge be reduced. Petition, p. 2. The Commission disagrees. In Order No. 98-369, the Commission found, based on the evidence of record, that the cost of establishing a new account is \$13.49. The Commission then found that the appropriate new account charge should be set at \$13.50. The Commission discerns no error in its determination of the new account charge. The new account charge set by the Commission is supported by the record in the case, and the Commission finds no error in setting the charge based on the cost of the service.

CWS also asserts that the Commission erred by not determining that the Company was exceeding its authorized operating margin. CWS proposes that before the Commission could reduce the new account charge that the Commission should have found that the allowance of a new account charge of \$27.00 resulted in the Company earning more than its approved operating margin. The Commission disagrees. The issue of the appropriate amount of the new account charge was before the Commission on remand from the Supreme Court. The Commission found based on the evidence that the cost of providing the service is less than the cost offered by the Company. Based on that evidence, the Commission set the new account charge on the basis of the actual cost providing the service. The Commission's decision is supported by the evidence of record, and the Commission finds no error in its decision.

CWS next contends that the Commission ignored other cases in which other utilities have been permitted to charge rates for a service in excess of the cost of the service. Petition, p. 3. CWS uses as example access charges in the telecommunications industry to illustrate its position that there is no requirement that the Commission set charges for a utility service based upon the cost of the service. The Commission finds the Company's argument non-persuasive. Based on the evidence of record before the Commission, the Commission made findings regarding the cost of the service and set the new account charge based on the actual cost of the service appropriate. The evidence of record supports the amount which the Commission found to be the cost of providing the service, and there is no error in basing the new account charge on the actual cost. The Company states that there is no requirement that the Commission set charges based simply upon the cost of that service. Petition, p. 3. While this statement may be true, there is likewise nothing which prohibits the Commission from setting a charge or rate based upon the cost of providing the service. The new account charge is one charge in the rate schedule approved for the Company. The Commission finds no error in using the cost of the service as the basis for setting the new account charge, especially since the evidence of record supports the new account charge set by the Commission.

The Company next argues that the Commission erred in concluding that the cost of establishing a new account was \$13.49. CWS argues that there is no evidence to support that Commission's conclusion. The Commission disagrees with the Company's position. In Order No. 98-369, the Commission recounted some of the evidence presented at the hearing. Staff witness Creech stated that CWS filed its "Exhibit H"

indicating total expenses of \$28.82 to support an increase in the new account charge to \$28.00. However, Mr. Creech also stated that of the \$28.82 total shown on "Schedule H" only \$13.99 is related to turning on service for a new customer while \$14.83 is related to terminating service to the existing customer. Mr. Creech stated the Staff supported a reduction of the charge. On cross-examination by the Consumer Advocate, Mr. Creech acknowledged that the cost justification demonstrated by "Schedule H" justified setting the new account charge at either \$13.99 or \$13.49. The difference in the two amounts is whether the entire cost of stationery and supplies is included in the charge or whether one-half of the cost for stationery and supplies is included.

The Commission believes that the Company's argument on this point is without merit. The record clearly contains evidence which supports the Commission's findings and decision. Order No. 98-369 refers to the relevant evidence which supports the Commission's determination. The Commission finds no error in its determination that the cost of establishing a new account is \$13.49 as the amount is supported by and based upon the evidence contained in the record.

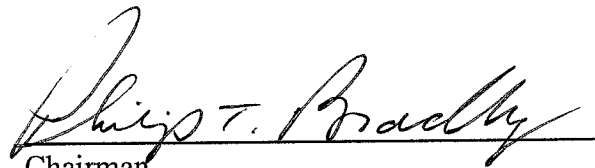
Finally, the Company asserts that Commission Order No. 98-369 fails to comply with S.C. Code Ann. Sections 1-23-350 and 1-23-380. However, the Company fails to set forth with any particularity how Order No. 98-369 fails to comply with those code sections. As the Company has not specifically addressed the particulars of how Order No. 98-369 fails to comply with §§1-23-350 and 1-23-380, the Commission does not have sufficient information upon which it may address such "blanket" assertion. The Commission believes that its decision in Order No. 98-369 is fully supported by the

record and that the Order sets forth the Commissions conclusions of law and findings of fact. Therefore, the Commission denies rehearing or reconsideration on this non-specific, general assertion.


IT IS THEREFORE ORDERED THAT:

1. For the reasons set forth above, the Petition for Rehearing or Reconsideration filed by the Company is denied.
2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Acting Executive Director

(SEAL)